IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7111 OF 2006

M/s.Hikal Limited .. Petitioner.

V/s.

The Union of India & Others .. Respondents.

Mr.Prakash Shah with Mr.Jitendra Motwani i/by PDS Legal for the petitioner.

Mr.Y.R. Mishra with Mr.C.J. Joy for the respondents.

CORAM : DR.S. RADHAKRISHNAN &
J.P. DEVADHAR, JJ.

DATED : 10TH JANUARY, 2007.

P.C. :

1. Heard the learned counsel for the petitioner and the respondents.

2. By this petition, the petitioner is challenging the pre-deposit order dated 18th September, 2006 whereby the Commissioner (Appeals) has directed the petitioner to deposit 25% of the duty demanded and 25% of the penalty imposed vide the order-in-original dated 28th April, 2006.

3. After hearing the parties and after perusal of the petition and it is also admitted that the duty to the extent of Rs.10,30,287/- has already been reversed on the very next day i.e. 29th April, 2000. In these

circumstances, as far as the order of deposit with regard to 25% of the duty demanded, we feel the said part of order could not be sustained and with regard to the deposit of 25% of the penalty, we are not inclined to interfere with that part of the order. However, revenue can be secured by way of a bank guarantee of a Nationalised Bank with regard to aforesaid 25% of the penalty amount, instead of deposit.

4. The impugned order dated 18th September, 2006 stands modified accordingly. The learned counsel for the petitioner states that the petitioner will furnish the aforesaid bank guarantee within a period of four weeks from today and thereafter the appeal be heard by the Commissioner (Appeals) expeditiously.

5. The writ petition stands disposed of accordingly.

(DR.S. RADHAKRISHNAN, J.)

(J.P. DEVADHAR, J.)